

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-24791-2017 (O&M)

Date of decision: 14.07.2017

Nirmala Devi

..... Petitioner

Versus

Ram Dev and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Sangram Singh, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Remaining unsuccessful before the Courts below, the petitioner-complainant has filed the instant petition under Section 482 Cr.P.C., seeking quashing of order dated 24.04.2017 (Annexure P-2) passed by the Ist Appellate Court and dated 21.11.2014 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Yamuna Nagar, Jagadhri.

2. In nutshell, petitioner-Nirmala Devi filed a complaint before the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri against the respondents and other private persons alleging that she was married with respondent No. 1-Ram Dev on 25.02.2001. Respondents No. 2 and 3 herein are her brother-in-law and father-in-law, respectively. Marriage between the petitioner and respondent No. 1 went into rough weather. Resultantly, the petitioner started residing in her sister's house and came to know that her husband-Ram Dev (respondent No. 1) without getting any divorce from the petitioner had solemnized second marriage with one Sanju (accused No. 5 in

evidence, the respondents were summoned to face trial under Section 494 read with Section 120-IPC, vide order dated 20.09.2012, passed by the learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri. However, vide impugned order dated 21.11.2014 (Annexure P-1) the trial Court dismissed the complaint filed by the petitioner and discharged the respondents primarily on the following two reasons:

- (i) Complainant-petitioner could not prove the alleged second marriage by her husband/respondent No. 1-Ram Devi with Sanju on 12.05.2009.
- (ii) The complainant herself has admitted her divorce with respondent No. 1-Ram Dev vide written divorce deed Ex. D-5.

3. Being aggrieved, the petitioner preferred an appeal against the aforesaid order before the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, which too was dismissed vide order dated 24.04.2017 (Annexure P-2).

4. Learned counsel for the petitioner contends that the appeal was wrongly filed by the petitioner on ill-advice of some advocate as the same was not maintainable against discharge of the respondents. He further contends that both the Courts below have erred in not appreciating the fact that alleged customary divorce in between the petitioner and respondent No.1-Ram Dev vide document Ex. D-5, was not valid without establishing the existence of any particular custom in between them.

5. I have given my anxious consideration to the submissions made by learned counsel for the petitioner.

6. Since, according to learned counsel for the petitioner, the

appeal filed by her was not maintainable before the lower Appellate Court, therefore, any judgment passed by it or any finding recorded therein cannot be looked into. The trial Court has recorded a specific finding about the admission of the petitioner in her cross-examination that compromise Ex.D5 was executed on 26.05.2010 and she had received ₹ 1,00,000/-from respondent No. 1-Ram Dev, in accordance with the same. The petitioner also identified her signatures as well as the photographs over the alleged compromise. The trial Court had also observed that the petitioner has not been able to prove the second marriage of respondent No. 1 with Sanju on 12.05.2009. In the absence of any cogent and convincing evidence about the second marriage of respondent No. 1-Ram Dev with Sanju, except the voter lists Ex. P-1 and P-2, produced by the petitioner in support of her assertion, in the considered opinion of this Court, the respondents have rightly been discharged by the learned trial Court.

7. In view of the discussion made above, the instant petition stands dismissed.

July 14, 2017

rishu

**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No